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<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/554,941	
	Filing Date	May 22, 2000	
	First Named Inventor	Howard Atkinson	
	Group Art Unit	1638	
	Examiner Name	Anne Kubelik	
Total Number of Pages in This Submission	17	Attorney Docket Number	S-30287A

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Syngenta Biotechnology, Inc.
	J. Timothy Meigs - Registration No. 38,241
Signature	<i>J. Timothy Meigs</i>
Date	11 January 2002

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

Atkinson *et al.*

Appl. No. 09/554,941

Filed: May 22, 2000

For: Proteinase Inhibitor Fusion Proteins

Art Unit: 1638

Examiner: Anne Kubelik

Atty Docket: S-30287A

**REPLY TO RESTRICTION/ELECTION REQUIREMENT**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

In the Office Action mailed December 14, 2001, the claims were restricted into three groups:

Group I, claims 1, 3-13, and 16-17;

Group II, claims 2 and 14; and

Group III, claim 15.

Applicant hereby elects to prosecute the claims of Group I with traverse.

The instant application is a §371 National Stage application of International Application No. PCT/EP98/07792. Thus, Unity of Invention (not restriction) practice is applicable in this case (*see*, MPEP § 1893.03(d)). An international application which complies with the unity of invention requirements laid down in PCT Rule 13 must be accepted by all the designated and elected Offices, since PCT Article 27(1) does not allow any national law (as defined in PCT

Article 2(x)) to require compliance with requirements relating to the contents of the international application different from or additional to those provided for in the PCT.

In the instant case, during the International Stage, the International Examiner never indicated that Unity of Invention was lacking. *See*, the International Search Report (attached hereto as **Exhibit A**), which indicates that all claims were searched and indicates that Unity of Invention was not found to be lacking. In particular, on Form PCT/ISA/210 (first sheet), Box 3 was not X'ed.

The PCT Written Opinion (attached hereto as **Exhibit B**) likewise indicates that Unity of Invention was not found to be lacking. In particular, on Form PCT/IPEA/408 (cover sheet), Box IV was not X'ed and in the Written Opinion itself, it is clear that claims 1-17 formed the basis of the International Examiner's opinion.


Furthermore, the International Preliminary Examination Report (attached hereto as **Exhibit C**) indicates that Unity of Invention was not found to be lacking. Box IV on Form PCT/IPEA/409 (cover sheet) was not X'ed and all of the claims were examined.

In light of the fact that Unity of Invention was not found to be lacking in the International Stage, Applicant respectfully submits that it is improper for the National Stage Examiner to now require compliance with requirements different from or additional to those provided for in the PCT.

Nevertheless, if Unity of Invention is still found to be lacking by the National Stage Examiner, MPEP § 803 indicates that if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. In the instant case, because the claims have already been searched during the International Stage and because the International Examiner has already generated both a Written Opinion and an International Preliminary Examination Report, Applicant respectfully suggests that the search and examination of the entire instant application can be made without serious burden.

Applicant respectfully requests favorable consideration of these remarks and examination of all claims 1-17. If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

  
\_\_\_\_\_  
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Date: January 11, 2002